IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Second Appeal No. 338 of 2007
[N.R. Thakre Vs. S.R. Agrawal]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. C.A. Joshi, Advocate for the appellant.

CORAM : A.H. JOSHI, J.

DATE : 31st October,2007.

Heard.

In a suit for declaration and injunction that the plaintiff has a right over the suit way by prescription, the appellant has suffered the dismissal of suit and has filed Second Appeal.

Crucial ground as to the nature of claim is Ground No. [III], which reads as follows:-

> [III] Whether, in spite of evidence on record, could the courts below have given finding that right of way by prescription was not proved by appellant?

It is seen that the finding in paragraph no. 30 of the Judgment of the First Appellate Court deals

with this aspect. By virtue of the ground now raised before this Court, the appellant is raising a dispute as to appreciation of evidence which is not open in Second Appeal

Admittedly, it is not a case of easement of necessity. Appeal does not involve Substantial Questions of Law. It is, therefore, dismissed.

Judge

|Hedau|

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Civil Application Nos. 4542 of 2007 and 4543 of 2007
IN
Second Appeal No. 338 of 2007
[N.R. Thakre Vs. S.R. Agrawal]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. C.A. Joshi, Advocate for the appellant.

CORAM : A.H. JOSHI, J.

DATE : 31st October,2007.

Civil Applications do not survive.

Judge

|Hedau|